

Notice of Listing of Categories and Regulatory Schedule for Air Emissions From Other Solid Waste Incinerators

Federal Register, Volume: 58 , Issue: 210 , Page: 58498 (58 FR 58498) , Tuesday, November 2, 1993

SUMMARY: Section 129 of the Act requires the EPA to develop new source performance standards (NSPS) and emission guidelines (EG) for four classes of solid waste incineration units. These are municipal waste combustors (MWC's), medical waste incinerators (MWI's), industrial and commercial waste incinerators (ICWI's), and categories of other solid waste incinerators (OSWI's). This document announces the listing of types of incinerators to be included under the category of OSWI's and a regulatory schedule for these units, as required under section 129 of the 1990 Amendments to the Clean Air Act (1990 Amendments). This document includes public comments on the draft list of categories of sources and the regulatory schedule published in the Federal Register on June 2, 1993 (58 FR 31358), and EPA responses to the comments.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

(AD-FRL-4795-6)

Notice of Listing of Categories and Regulatory Schedule for Air Emissions From Other Solid Waste Incinerators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of listing of categories of sources of other solid waste incineration units under section 129 of the Clean Air Act (Act) and a schedule for promulgation of regulations.

SUMMARY: Section 129 of the Act requires the EPA to develop new source performance standards (NSPS) and emission guidelines (EG) for four classes of solid waste incineration units. These are municipal waste combustors (MWC's), medical waste incinerators (MWI's), industrial and commercial waste incinerators (ICWI's), and categories of other solid waste incinerators (OSWI's). This document announces the listing of types of incinerators to be included under the category of

OSWI's and a regulatory schedule for these units, as required under section 129 of the 1990 Amendments to the Clean Air Act (1990 Amendments). This document includes public comments on the draft list of categories of sources and the regulatory schedule published in the Federal Register on June 2, 1993 (58 FR 31358), and EPA responses to the comments.

EFFECTIVE DATE: November 2, 1993.

ADDRESSES: Docket. Docket No. A-93-11 containing supporting information used in developing this document is available for public inspection and copying between the hours of 8:30 a.m. and 3:30 p.m., Monday through Friday, excluding Federal holidays, at the EPA's Air Docket, Waterside Mall, Room M- 1500, 1st Floor, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For information concerning specific aspects of this document, contact Mr. David Painter, Industrial Studies Branch, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541- 5515.

SUPPLEMENTARY INFORMATION: The following outline is provided to aid in locating information in this document.

I. Introduction II. Discussion of Public Comments and Responses to Comments III. Final List of Categories of Sources IV. Regulatory Schedule

I. Introduction

This document presents a list of categories of OSWI sources which EPA will further investigate and a schedule for subsequent regulatory activities.

Under a consent agreement (see Waxman, et al. vs. Reilly, No. 92-1230 (D.D.C.) consent decree entered January 25, 1993), the EPA agreed to publish this listing of source categories and schedule by December 31, 1993.

Prior to developing NSPS and EG for OSWI's, the EPA is required to list the categories of sources that comprise OSWI's and specify the regulatory schedule for promulgating standards for any of these sources. To identify categories of OSWI's, the EPA conducted a literature review of solid waste incineration technologies and contacted selected State air pollution control

and solid waste management agencies, the U.S. Department of Energy, incineration equipment manufacturers, and their trade associations. Through these efforts, information was gathered on potential categories of OSWI's, and a draft list of categories and a regulatory schedule were published in the Federal Register on June 2, 1993 (58 FR 31358). That document listed and described the categories of sources to be included under OSWI's as follows:

A. Small MWC's

This category includes MWC plants with capacities of 35 Mg/d (39 tons/d) or less. This includes, but is not limited to, incinerators burning municipal solid waste (MSW) which service communities or are located at prisons, schools, or other institutions.

These very small incinerators are not covered under the MWC regulations promulgated on February 11, 1991 (56 FR 5488 and 56 FR 5514), and are not currently expected to be covered by the NSPS and EG presently under development. Due to the differences in incineration technology and ownership between these small incinerators and larger MWC's, the EPA is proposing to include very small MWC's under OSWI's.

B. Residential Incinerators

This category includes small incinerators at single and multi-family dwellings, hotels and motels.

C. Agricultural Waste Incinerators

This category includes incinerators burning agricultural waste for the purpose of destruction of the waste and/or energy recovery. Agricultural waste includes material generated or used by an agricultural operation, including, for example, crop residue, rice hulls, and almond shells.

D. Wood Waste Incinerators

This category includes conical incinerators (including wigwam burners) and other types of incineration equipment burning solid waste that is predominately wood waste for the purpose of destruction of the waste and/or energy recovery. As directed by

section 129 of the 1990 Amendments, this category does not include air curtain incinerators burning wood wastes, yard wastes, or clean lumber. However, the Administrator will establish opacity limitations for such units as required under the 1990 Amendments.

E. Construction and Demolition Waste Incinerators

This category covers incinerators burning construction and demolition waste for the purpose of destruction of the waste and/or energy recovery.

Construction and demolition waste includes, for example, wood pallets, crates, used lumber, demolition wastes, etc., and is excluded from the definition of MSW.

F. Crematories

This category includes those units which cremate both human and animal remains.

G. Petroleum-Contaminated Soil Treatment Facilities

This category covers stationary facilities or portable units that treat petroleum-contaminated soil. Sections 104 and 127 of the

Comprehensive Environmental Response, Compensation, and Liability Act exclude petroleum from the definition of hazardous substance, pollutant or contaminant.

Therefore, petroleum-contaminated soil treatment facilities are not regulated as hazardous waste treatment facilities. The

process involves heating the soil with natural gas, propane, or No. 2 fuel oil to remove hydrocarbons, which are then either combusted in the kiln or condensed for reuse.

As noted above, section 129 of the 1990 Amendments directs the EPA to develop NSPS and EG for categories of OSWI's.

Prior to doing this, the EPA must define categories of OSWI's and determine a regulatory schedule for promulgating any standards. (Section 129 specifies the schedule for regulatory development for MWC's, MWI's, and ICWI's.) In the June 2, 1993 Federal Register document, the EPA noted that the emission reductions to be derived from regulating MWC's, MWI's, and ICWI's are expected to outweigh those that can be achieved in regulating the categories of incinerators included in the

draft list of OSWI's. The categories of OSWI's included in the initial listing are smaller sources and controls for these are likely to be less cost-effective than controls for MWC's, MWI's, and ICWI's. Additionally, the EPA is still assessing and understanding the emission generation mechanisms, emission controls and control costs for the larger incineration sources, and it will be more efficient to take advantage of the information developed on these sources before beginning the further assessment of OSWI's.

For the above reasons, the EPA proposed to prioritize the use of its resources by focusing first on the MWC, MWI, and ICWI regulatory projects.

Therefore, the EPA proposed November 15, 2000 as the regulatory deadline for promulgating NSPS and EG for OSWI's.

Selection of this date was based upon the Administrator's judgment that the proposed categories of sources of OSWI's are of lesser significance than MWC's, MWI's, and ICWI's, and upon the Administrator's conclusion that it would be a more efficient use of the EPA's resources to regulate those three source categories first.

The EPA requested comments on whether the categories of sources included in the initial list were appropriate, and whether there were other categories that should be added to this list. The EPA also requested comments upon the appropriateness of its planned regulatory schedule.

II. Discussion of Public Comments and Responses to Comments

A. General

A total of seven comments were received. Three commenters expressed support for the inclusion of some or all of the seven categories of OSWI's in the proposed list. One of the commenters, representing a State agency, explained that the citizens of that State have been very concerned about the significant emissions of air toxics from all types of incinerators which may be impacting the quality of water in the Great Lakes and other bodies of water. The remaining commenters requested clarifications or modifications of the categories of OSWI. Those comments and EPA's responses are summarized below.

B. Small MWC's

One commenter stated that it is not clear whether incinerators installed at schools and other governmental agencies are included in the proposed list of categories of OSWI's. This commenter expressed support for including these incinerators under OSWI. The commenter stated that many incinerators owned and operated by schools and governmental agencies do not utilize state-of-the-art combustion and control equipment and have poor operation and maintenance.

The EPA agrees with the commenters that incinerators at schools and other governmental facilities belong in the category of small MWC's, as was previously indicated in the June 2, 1993 document. The commenters' concerns about the operation and emissions of these sources will be considered in a subsequent study to scope the category, and, if needed, to establish emission limits for this class of incinerators.

C. Residential Incinerators

One commenter stated that residential incinerators should include incinerators located at both apartment buildings and residential homes.

Another commenter expressed the opinion that residential incinerators should not be allowed to operate because they cannot be properly operated or monitored.

As was indicated in the June 2, 1993 document, the EPA is including incinerators located at both apartment buildings and residential homes in the category of residential incinerators. The commenters' concerns about the operation and control of these sources will be addressed in a subsequent study to scope the category, and, if needed, to establish emission limits for this class of incinerators.

D. Wood Waste Incinerators and Agricultural Waste Incinerators

One commenter representing an industry association, expressed support for narrow definitions of wood waste incinerators and agricultural waste incinerators to exclude current industry operations whose primary purpose is energy recovery, rather than material destruction. The commenter provided a list of wood waste energy recovery incineration operations to be exempted from the definitions. The commenter stated that these operations typically have fuel

specifications (e.g., chip or pellet size, moisture content, acceptable contamination levels) that differentiate them from other typical incineration devices whose primary use is thermal destruction. In addition, the commenter said that such wood waste energy recovery incineration operations are already regulated under other EPA regulations, including the NSPS subpart D(b) and D(c) standards and are to be included in future maximum achievable control technology standards for industrial boilers. Also expressed was a concern that some of these energy recovery incinerators would be regulated under the OSWI category of agricultural waste incinerators because some of these incinerators also use agricultural products as a fuel, such as the material remaining after recovering chips from plantation-grown hybrid poplar or cottonwoods.

The EPA shares the concerns of the commenter with regard to the need to avoid overlap of possible new NSPS applicable to OSWI's with other regulations. In particular, the EPA examined the commenter's observations about the potential to overlap subparts D(b) and D(c) of the NSPS. The EPA notes that the purpose of the NSPS is to control criteria pollutants. Those same pollutants were included among the pollutants listed in section 129 of the 1990 Amendments. However, the additional focus of section 129 is on the control of hazardous air pollutants (HAP's) and, therefore, the Congress mandated that the EPA establish numerical limits for several HAP's in addition to those pollutants covered by subparts D(b) and D(c) of the NSPS. Additionally, the EPA notes that NSPS apply only to new sources and do not apply to the large number of existing sources. For these reasons, the EPA has concluded that the coverage of wood waste incinerators should not be narrowed any further than as was described in the June 2, 1993 document. The 1990 Amendments require the EPA to address such sources. However, the EPA will remain sensitive to the commenter's concerns about duplicative regulations. In addition, if regulations are later developed under section 129, the EPA will identify those sources which are excluded from coverage, such as those energy recovery facilities described in section 129(g)(1)(B).

The EPA has determined that facilities incinerating agricultural waste for energy recovery purposes are included in the OSWI category of agricultural waste incinerators. Air emissions from these incinerators are not regulated by any other standard, and the 1990 Amendments do not exempt energy recovery operations incinerating agricultural waste from its definition of solid

waste incinerators.

E. Construction and Demolition Waste Incinerators

A commenter stated that demolition wastes should not be exempted from incineration regulations. This commenter said that demolition wastes may contain materials that will emit toxic fumes when burned and also expressed a concern about the presence of asbestos in demolition wastes.

It is the intent of the EPA that the incineration of demolition wastes is to be included in the category of construction and demolition waste incinerators. In assessing the need for regulating these sources, the EPA will investigate the emissions resulting from combustion of the toxic components of these types of wastes.

F. Crematories

One commenter expressed support for crematories being included in the proposed list. This commenter is concerned that some States still apply the same opacity standards to crematories as they do to other incinerators. The commenter stated that most opacity limits allow for higher levels of visible emissions during start-up operations. The commenter suggested that this may be reasonable for large municipal incinerators that start up once a week, but asserted that such allowances are not reasonable for crematories which undergo start-up operations at the beginning of each cremation.¹¹ In assessing the need to develop emission limitations applicable to crematories, the EPA will specifically evaluate the commenter's concerns regarding possible excess emissions occurring during start-up.

G. Petroleum-Contaminated Soil Treatment Facilities

One commenter stated that the incineration of contaminated soil needs immediate attention and urged the EPA to regulate contaminated soil incinerators. Another commenter suggested that the EPA clarify how petroleum-contaminated soil treatment facilities are covered under the OSWI categories. The commenter said that petroleum-contaminated soil treatment facilities which treat soil that passes the Toxicity Characteristic (TC) Rule test for hazardous waste should be subject to the OSWI requirements since these

facilities do not treat hazardous waste. The same commenter said that if the soil fails the TC Rule test, the facility would be regulated under the Solid Waste Disposal Act (SWDA), and therefore should be exempt from the OSWI requirements.

A third commenter stated that all treatment devices that heat hazardous wastes or polychlorinated biphenyls (PCB's) in an oxidizing environment should be regulated as incinerators. The commenter maintained that these types of devices are engaged in combustion and pose the same potential risks to human health and the environment that an incinerator does. The commenter urged the EPA to include under the ICWI category those thermal desorbers, sludge dryers, and other treatment units that do not fall within the definitions of MWC's or MWI's and that heat any portion of the waste in an oxidizing environment. As an alternative, the commenter recommended that the EPA add an eighth OSWI category to cover these devices. In support of this recommendation, the commenter incorporated, in its entirety, a petition that was submitted to the EPA on July 13, 1993 entitled, "Petition for Rulemaking to Amend EPA's Regulations to Address Thermal Oxidation of Hazardous Wastes and PCBs in Thermal Desorbers, Sludge Dryers, and Other Devices." In response to the comments, the EPA has decided to expand the proposed category of "petroleum-contaminated soil treatment facilities" and to indicate this by dropping the word petroleum from the title. In the listing below, this class of incinerators has been listed as "contaminated soil treatment facilities". This class of OSWI's covers all soil treatment facilities that are not required to have a permit under section 3005 of the SWDA.

The third commenter's request that the EPA include incineration of hazardous wastes and PCB's, thermal desorbers, and sludge driers under OSWI or ICWI rulemaking actions is beyond the purview of section 129. This is evidenced by the limited number of pollutants for which EPA must develop emission limits and by the restrictive language of the definition of a solid waste incineration unit in section 129(g)(1). The commenter's concerns about regulation of these particular types of sources will be the subject of EPA's response to the commenter's petition for their coverage under either the Toxic Substances Control Act or the Resource Conservation and Recovery Act.

H. Additional Categories to be Considered

One commenter contended that the proposed list should include tire incinerators and material recovery facilities. This commenter also maintained that co-generation facilities should not be exempted from the proposed list because these facilities impact the health of people living nearby. In response, the EPA notes that the three categories the commenter mentioned (tire incinerators, material recovery facilities, and co-generation facilities) are specifically excluded from the 1990 Amendments' definition of solid waste incinerators. Therefore, these categories of sources will not be included under OSWI's.

I. Regulatory Schedule

One commenter expressed support for the proposed promulgation schedule for OSWI's. A second commenter agreed that MWC's, MWI's, and ICWI's should have a higher priority than OSWI's, but contended, as did a third commenter, that the promulgation schedule for OSWI's represents an unreasonably long period of time, considering the potential for OSWI's to emit dangerous toxic air pollutants.

To support an argument for a shorter promulgation schedule, the second commenter provided a list of various types of solid waste materials incinerated by the seven proposed categories of incinerators and the resulting toxic substances that the commenter believed could potentially be emitted. Also, the commenter predicted that small MWC's will increasingly replace small landfills in many rural areas due to new landfill regulations which make small MWC's more economically attractive. This commenter postulates that small units will be constructed with inadequate air pollution controls to reduce costs and, thereby, cause negative human health consequences. The commenter suggested that locating small MWC's in rural areas may allow toxic emissions to affect the food chain more directly. The commenter further noted that some States cannot legally regulate OSWI's until the EPA does.

After considering the comments provided, the EPA has decided to adopt the proposed promulgation schedule of November 15, 2000 for OSWI's. The commenters who suggested a shorter promulgation period did not provide information to support their conclusion that the amounts of toxic pollutants potentially emitted from the OSWI categories of sources create more significant health and environmental impacts than other sources to be controlled pursuant to

section 129 of the 1990

Amendments. Therefore, the EPA still believes that the November 15, 2000 promulgation date reasonably allows it to

prioritize its resources by first focusing on MWC's, MWI's, and ICWI's.

This date is a target date, and regulations for individual categories of OSWI's may be promulgated sooner.

III. Final List of Categories of Sources

After reviewing the comments provided, the EPA has decided to pursue regulatory development for the following categories of OSWI's:

1. Small MWC's--those MWC plants with capacities of 35 megagrams per day (Mg/d) (39 tons per day (tons/d)) or less;
2. Residential incinerators;
3. Agricultural waste incinerators;
4. Wood waste incinerators;
5. Construction and demolition waste incinerators;
6. Crematories; and
7. Contaminated soil treatment facilities.

The coverage of the classes is as originally published (see 58 FR 31358) subject to the clarifications and modifications described above. Due to the limited information available to date, the EPA cannot say at this time that regulations will be promulgated for all categories that are listed. However, each category listed will be further investigated and regulations will be developed and promulgated as appropriate.

IV. Regulatory Schedule

The scheduled date for promulgating NSPS and EG for OSWI's is November 15, 2000.

Dated: October 21, 1993.

Michael H. Shapiro,
Acting Assistant Administrator for Air and Radiation.

(FR Doc. 93-26677 Filed 11-1-93; 8:45 am)

BILLING CODE 6560-50-F

Legal Publications:

Pub. Law 84-159 SEC. 129 -- Air Pollution Control Act (Act of 7/14/55)

Pub. Law 89-272 -- Solid Waste Disposal Act (Act of 10/20/65); Motor Vehicle Air Pollution Control Act (Act of 10/20/65)

Pub. Law 94-469 -- Toxic Substances Control Act (Act of 10/11/76)

Pub. Law 99-499 -- Superfund Amendments and Reauthorization Act of 1986 (SARA); Emergency Planning and Community Right-to-Know Act of 1986

Pub. Law 96-510 SEC. 104 -- Comprehensive Environmental Response, Compensation, and Liability Act of 1980

(CERCLA); Hazardous Substance Response Revenue Act of 1980

Pub. Law 101-549 SEC. 305 129 -- Clean Air Act, Amendments (11/15/90)

Pub. Law 94-580 -- Resource Conservation and Recovery Act of 1976 (RCRA)

Federal Register

© format only 2000 The Dialog Corporation plc. All rights reserved.

Dialog® File Number 180 Accession Number 2289340